

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-211004**DATE:** May 23, 1983**MATTER OF:** Stephen A. Webb - Temporary Quarters
Subsistence Expenses - Rental of
Permanent Home**DIGEST:**

Employee, who was transferred from New Orleans, Louisiana, to Dallas, Texas, rented and moved into a residence in the Dallas area which he intended to buy. The fact that his family may have been uncomfortable and that the Government may have saved substantially from his decision to rent the house does not provide a basis to allow the employee reimbursement for temporary quarters subsistence expenses while living in the house because those quarters were not temporary.

This decision is in response to a request from Ms. Elizabeth A. Allen, Chief, Accounting Section, Southwest Region, Internal Revenue Service (IRS), regarding the propriety of paying temporary quarters subsistence expenses. The expenses are claimed by Mr. Stephen A. Webb, an IRS employee, for the time during which he and his family occupied a house on a rental basis prior to completing a contract to purchase that house. Because Mr. Webb intended to occupy the residence on a permanent basis, he is not entitled to reimbursement of temporary quarters subsistence expenses.

Mr. Webb transferred from New Orleans, Louisiana, to Dallas, Texas in November, 1981. He was authorized relocation allowances, including reimbursement for temporary quarters subsistence expenses for 30 days. On November 11, 1981, Mr. Webb made preliminary arrangements to purchase a house in the Dallas area. He applied for a mortgage loan, which was necessary to complete the purchase, and was advised that approval of the loan would require 4 to 6 weeks. Pending approval of his loan application, Mr. Webb attempted to locate suitable temporary rental housing, but was unsuccessful. He then made arrangements to rent the house he was in the process of buying, pending approval of his loan and closing of the transaction. Mr. Webb and his family moved into the house on November 27, 1981.

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Mr. Webb submitted a claim for reimbursement of temporary quarters subsistence expenses, including rent, meals, laundry, and cleaning for the period subsequent to November 27, 1981, the date he moved into his house. Mr. Webb's claim for expenses incurred after November 27 was disallowed by the IRS Regional Accounting Section on the basis of several previous Comptroller General decisions holding that employees occupying and paying rent for houses they intend to purchase are not entitled to reimbursement for temporary quarters subsistence expenses. Mr. Webb, however, contends that, because of work and school scheduling difficulties, his family would have been subject to hardship had they been required to live in a motel pending approval of their mortgage loan. Further, Mr. Webb's family was subject to hardship while they rented the house because it was poorly lighted and heated. Finally, Mr. Webb observes that the Government saved substantially as a consequence of his decision to rent his house because the house rent was only \$15 per day, although motel rent would have been approximately \$40 per day.

The statutory authority for reimbursement of temporary quarters subsistence expenses is 5 U.S.C. § 5724a(a)(3) (1976). That section, at the time of Mr. Webb's transfer, was implemented by the Federal Travel Regulations, FPMR 101-7 (September 1981) (FTR), paragraph 2-5.2c, which read:

"c. What constitutes temporary quarters. The term 'temporary quarters' refers to any lodging obtained from private or commercial sources to be occupied temporarily by the employee or members of his/her immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized."

It has been the consistent position of this Office that when transferring Government employees pay rent for homes they intend to purchase, those homes are not "temporary quarters" as defined by FTR paragraph 2-5.2c, and those employees, therefore, are not entitled to reimbursement for temporary quarters subsistence expenses. Kenneth O. Dudley, B-205394, April 26, 1982; Elven E. Conklin, B-184565, February 27, 1976. In the instant case, Mr. Webb clearly intended to purchase the house when he moved in and was well into the

process of doing so. The house clearly was not "temporary quarters" within the meaning of the Federal Travel Regulations.

We appreciate Mr. Webb's observation that, because the house was poorly lighted and poorly heated, his family derived no "benefit" from his decision to move into the house on a rental basis. Nonetheless, it is occupancy of the quarters, not their unrestricted or comfortable use, which is controlling. William E. Klotz, B-203222, January 5, 1982. For example, this Office has previously disallowed reimbursement of temporary quarters subsistence expenses when an employee occupied a permanent residence, even though his furniture had not arrived and cooking and eating facilities were lacking. Robert N. Havens, B-194837, August 8, 1979.

Finally, Mr. Webb observes, possibly correctly, that the Government saved substantially as a consequence of his decision to rent the house, because the rent charged for the house was substantially less than the rent which would have been charged by a local motel. Nonetheless, the savings to the Government do not transform Mr. Webb's permanent occupancy of his house into a temporary occupancy. See William E. Palzkill, B-205866, May 18, 1982. When an employee moves into a house he has decided to purchase, even though final settlement for the house has not yet taken place, he has ceased to occupy temporary quarters. This is so even when the occupancy of the purchased quarters results in a savings to the Government. Douglas D. Mason, B-196284, August 14, 1980.

Accordingly, payment of temporary quarters subsistence expenses is not authorized for the period subsequent to November 27, 1982.

for 
Comptroller General
of the United States